

M.D., Appellant

**DEPARTMENT OF AGRICULTURE,
FOOD SAFETY INSPECTION SERVICE,
Moorefield, WV, Employer**

Appearances:

Case Submitted on the Record

Before:

² Docket No. 08-1543 (issued August 4, 2009); Docket No. 11-0698 (issued September 30, 2011).

became aware of her condition on July 2, 2000 and realized its relationship to her federal employment on September 13, 2000. Appellant stopped work on July 3, 2000 and returned on July 31, 2000. OWCP accepted her claim for left shoulder strain and impingement syndrome. Appellant underwent an OWCP-authorized left shoulder arthroscopy with acromioplasty on October 26, 2001 and January 27, 2003.

On July 15, 2019 appellant filed a claim for a schedule award (Form CA-7).

OWCP, thereafter, received an April 8, 2019 letter by Dr. Eric T. Ricchetti, a Board-certified orthopedic surgeon, who advised that appellant had reached maximum medical improvement (MMI).

In a development letter dated July 25, 2019, OWCP requested that appellant submit a report from her attending physician, which addressed whether she had reached MMI and, if so, to evaluate permanent impairment in accordance with the standards of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).³ It afforded her 30 days to submit the necessary evidence. No further evidence was submitted within the allotted time.

By decision dated September 5, 2019, OWCP denied appellant's schedule award claim, finding that the evidence of record was insufficient to establish permanent impairment of a scheduled member or function of the body. It noted that appellant had not responded to its July 25, 2019 development letter.

On September 11, 2019 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

OWCP subsequently received an October 11, 2019 medical report by Dr. Sami E. Moufawad, Board-certified in physiatry and pain medicine. Dr. Moufawad diagnosed other affection of the left shoulder region, not elsewhere classified; and sprain of the left shoulder and upper arm, unspecified, as a result of appellant's July 2, 2002 employment injury. He advised that she reached MMI as of the date of his impairment evaluation. Dr. Moufawad determined that appellant had 4 percent permanent impairment of the left upper extremity using the diagnosis-based impairment (DBI) rating method and 13 percent permanent impairment of the left upper extremity, using the range of motion (ROM) rating method under the sixth edition of the A.M.A., *Guides*. He concluded that she sustained a 13 percent permanent impairment of the left upper extremity as the ROM permanent impairment rating was greater than the DBI permanent impairment rating.

By decision dated February 20, 2020, OWCP's hearing representative affirmed the September 5, 2019 decision.

The Board has duly considered this matter and finds that this case is not in posture for decision. OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to a district medical adviser (DMA) for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*, with the DMA providing

³ A.M.A., *Guides* (6th ed. 2009).

rationale for the percentage of impairment specified.⁴ Its procedures further provide that, if there is indication in the record of impairment, OWCP should refer the case to its DMA before denying a schedule award claim.⁵ In the instant case, a DMA has not reviewed Dr. Moufawad's October 11, 2019 report.⁶

Accordingly, the Board will remand the case to OWCP for further development. On remand, OWCP shall prepare an updated statement of accepted facts and refer the case file to a DMA for a reasoned opinion regarding the extent of appellant's permanent impairment of the left upper extremity. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's schedule award claim.⁷

IT IS HEREBY ORDERED THAT the February 20, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: August 31, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

⁴ Federal Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(f) (March 2017). *See also* P.W., Docket No. 19-1493 (issued August 12, 2020); *Frantz Ghassan*, 57 ECAB 349 (2006).

⁵ Federal (FECA) Procedure Manual, *id.*, at Chapter 2.808.6d (March 2017).

⁶ T.J., Docket No. 19-1656 (issued September 18, 2020); M.R., *Order Remanding Case*, Docket No. 12-1932 (issued March 25, 2013); M.R., *Order Remanding Case*, Docket No. 12-0914 (issued November 29, 2012); J.T., *Order Remanding Case*, Docket No. 11-1934 (issued June 12, 2012).

⁷ *Id.*